

NOT FOR CITATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD NELSON BRYANT,

Petitioner,

No. C 05-2535 PJH (PR)

v.

ORDER OF DISMISSAL

MARIO REYES, Warden,

Respondent.

Petitioner, a California prisoner, has filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He also seeks to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

Venue is proper in this district because the conviction was obtained in San Francisco, which is in this district. See 28 U.S.C. § 2241(d).

DISCUSSION

A. Standard of Review

A district court may entertain a petition for writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975).

A habeas petition may be dismissed summarily "[i]f it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court. . . ." Rule 4, Rules Governing Section 2254 Cases, 28 U.S.C. foll. § 2254; *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990).

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1 *B. Legal claims*

2 Petitioner alleges that he pled guilty to a charge of failure to register as a sex
3 offender. As grounds for relief he contends that he was never told he had to register and
4 that he was vindictively prosecuted. The guilty plea waived these claims. *See Haring v.*
5 *Prosise*, 462 U.S. 306, 319-20 (1983) (guilty plea forecloses consideration of pre-plea
6 constitutional deprivations). The only challenges left open in federal habeas corpus after a
7 guilty plea is the voluntary and intelligent character of the plea and the nature of the advice
8 of counsel to plead, *Hill v. Lockhart*, 474 U.S. 52, 56-57 (1985), claims petitioner does not
9 raise here. The petition will be dismissed.¹

10 **CONCLUSION**

11 Leave to proceed in forma pauperis (doc 3) is **GRANTED**. For the foregoing
12 reasons, the petition is summarily **DISMISSED**. See Rule 4, Rules Governing Section
13 2254 Cases, 28 U.S.C. foll. § 2254.

14 The clerk shall close the file.

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16 **IT IS SO ORDERED.**

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18 Dated: March 6, 2006.

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PHYLLIS J. HAMILTON
United States District Judge

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27 ¹Petitioner also does not allege that he filed any state appellate or habeas proceedings,
28 so it appears he has not exhausted.